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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,020	06/01/2005	Paolo Balliello	PL/2-22807/A/PCT	8510
324 7590 12/11/2007 CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			EXAMINER ABU ALI, SHUANGYI	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/537,020	Applicant(s) BALLIELLO, PAOLO	
	Examiner Shuangyi Abu-Ali	Art Unit 1793	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-9 and 11-21 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/31/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of GB 1176217 and U. S. Patent No. 3,728,143 to Pollard et al. , further in view of U. S. Patent No. 4,264,552 to Macmahon et al.

Regarding claims 1 and 3-4, '217 disclose a composition comprising pigment and hydroxyalkylcellulose. '217 disclose that cellulose with different degree of substitution displays different solubility in the medium (page 2, lines 6-10). '217 disclose that the ratio of the cellulose to pigment is preferred in the range of 1:9 to 1:4 (page 2, lines 22-25).

But they are silent about the fatty acid amide compound used in the composition as applicant set forth in claim 1.

However, Pollard, also drawn to pigment treatment, discloses a pigment composition treated with fatty acid amide derived from fatty acid and amine (col. 4, line 55 to col. 6, line 48). The ratio of fatty acid amide to pigment is preferred in the range of 1:9 to 9:1 (col. 8, lines 74-75).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to use fatty acid amide in '217 pigment composition, motivated by the fact that Pollard et al. disclose that the pigment treated with fatty acid amide is dustless and brilliant reflected hues, increased opacity of opaque pigments, increased transparency of transparent pigments, and increased pigment concentrations of the polymer. (col. 9, lines 37-39 and col. 3, lines 63-71).

Combined teaching of '217 and Pollard et al. disclose a pigment composition as applicant set forth in claim 1 except the cellulose and fatty acid amide amount in the composition. However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to utilize cellulose and amide amount as applicant set forth in claim 1, motivated by the fact that Macmahon et al, also drawn to a pigment composition, disclose that the additive system is preferred in the range of 0.5% to 20% based on the weight of the pigment for the reason of the cost ( col. 4, lines 5-10).

Regarding claim 2, '217 disclose that the cellulose is hydroxyethyl cellulose (Page 1, line 32).

Regarding claim 5, '217 disclose the pigment is azo pigment (page 2, line 64).

Regarding claim 6 and 11, Pollard et al. disclose a method of pigmenting polyolefin polymers by using fatty acid amide treated pigment (col. 8, line 49). The

commercial available Low density polyethylene has a molecular weight in the range of  $5-20 \times 10^4$ .

Regarding claims 12 and 13, '217 disclose the pigment is perinone (page 3, line 10).

Regarding claims 14-18, Pollard et al. disclose a method of pigmenting polyolefin polymers by using the fatty acid amide treated pigment. '217 discloses that an amount of 0.1-10 part by weight of the coated pigment is used to color 100 parts polymer (col. 9, lines 4-9).

Claims 7, 9 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of Hollard et al., '217 and Macmahon et al. , further in view of U. S. Patent No. 5,681,876 to Schneider et al.

Regarding claims 7, 9 and 20-21, Combined teaching of Hollard et al., '217 and Macmahon et al. disclose a pigment composition as set forth above.

'217 discloses a method of making a pigment composition by combining a suitable amount of pigment and water (ratio of pigment to water is 1:9) is added into a sand mill, The dispersion is well homogenized and then sprays drying the dispersion to achieve a pigment composition. However, they are silent about the PH value in the the dispersion as applicant step forth in claim 7.

However, Schneider et al. also drawn to pigment preparation, disclose a method of making pigment preparation by converting the pigment, which is expediently a finished or unfinished, into a finely divided state in an aqueous or aqueous-organic medium at a temperature of from 20.degree. to 60.degree. C. and at a pH of from 4 to

10 by continuous or discontinuous grinding or kneading, and converting the resulting, finely divided pigment dispersion to the dry state by an appropriate process, to obtain a fine flowable powder, for example by spray drying, belt drying or fluidized-bed drying (col. 6, lines 37-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to use Schneider et al. method in combined teaching of Pollard et al. and '217, motivated by the fact that the spray drying process of Schneider et al. results in pulverulent, readily flowable, noncaking, high concentrated pigment (col. 7, lines 9-12).

Regarding claim 19, '217 disclose the pigment is azo pigment (page 2, line 64).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of Hollard et al. , '217, Macmahon et al. and Schneider et al, further in view of U. S. patent No. 5,082,498 to Kurtz et al.

Regarding claim 8, combined teaching of Hollard et al. , '217 , Macmahon et al. and Schneider et al disclose a method of making pigment composition as applicant set forth in claim 7, However, they are silent about the pigment is a moist pigment cake state before added into the medium.

However, it would have been obvious to one of ordinary skill in the at the time of invention by applicant to added press cake pigment in the medium before spray drying process, motivated by the fact that Kurtz et al., also drawn to pigment preparation, disclose that press cake pigment is used in conventional spray drying process. (col. 4, lines 30-35).

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is list on the Form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shuangyi Abu-Ali whose telephone number is 571-272-6453. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sa

  
**J.A. LORENGO**  
**SUPERVISORY PATENT EXAMINER**